

EXHIBIT

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AIA Document A121/CMc and AGC Document 565
Standard Form of Agreement Between
Owner and Construction Manager
where the Construction Manager is also
THE CONSTRUCTOR

1991 Edition- Electronic Format

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The 1987 Edition of AIA Document A201, General Conditions of the Contract for Construction, is referred to herein. This Agreement requires modification if other general conditions are utilized.

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AGREEMENT
made as of the 3rd day of March in the year 2006
(In words, indicate day, month and year)

BETWEEN the Owner:

(Name and address)
785 Partners, LLC (f/k/a Esplanade Condominiums LLC)
c/o Esplanade Capital LLC
350 Fifth Avenue, 59th Floor
New York, New York
Attention: Mr. David Scharf
and the Construction Manager.

(Name and address)
Time Square Construction, Inc.
c/o Navillus Contracting
53-18 11th Street
Long Island City, New York 11101
Attention: Mr. Tony Del Greco

The Project is:
(Name, address and brief description)
Construction of New Condominium
Project at 785 Eighth Avenue
New York, New York

The Architect is:
(Name and address)
Ismael Leyva Architects P.C.
48 West 37th Street
New York, New York 10018

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purchase order or rental agreement and the Owner shall pay the Construction Manager the costs necessarily incurred by the Construction Manager by reason of such termination.

10.2 TERMINATION SUBSEQUENT TO ESTABLISHING GUARANTEED MAXIMUM PRICE

Subsequent to execution by both parties of Amendment No. 1, the This Contract may be terminated as provided in Article 14 of AIA Document A201.

10.2.1 In the event of such termination by the Owner, the amount payable to the Construction Manager pursuant to Subparagraph 14.1.3 14.1.3 of AIA Document A201 shall not exceed the amount the Construction Manager would have been entitled to receive pursuant to Subparagraphs 10.1.2 and 10.1.3 Paragraphs 4.1 and 5.1 of this Agreement.

10.2.2 In the event of such termination by the Construction Manager, the amount to be paid to the Construction Manager under Subparagraph 14.1.2 14.1.3 of AIA Document A201

shall not exceed the amount the Construction Manager would be entitled to receive under Subparagraphs 10.1.2 or 10.1.3 Paragraphs 4.1 and 5.1 above, except that the Construction Manager's Fee shall be calculated as if the Work had been fully completed by the Construction Manager, including a reasonable estimate of the Cost of the Work for Work not actually completed adjusted equitably due to the fact Project was not completed.

10.3 SUSPENSION

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201; in such case, the Guaranteed Maximum Price, if established, shall be increased as provided in Subparagraph 14.3.2 of AIA Document A201 except that the term "cost of performance of the Contract" in that Subparagraph shall be understood to mean the Cost of the Work and the term "profit" shall be understood to mean the Construction Manager's Fee as described in Subparagraphs 5.1.1 and 5.3.4 of this Agreement.

ARTICLE 11 OTHER CONDITIONS AND SERVICES

This Agreement entered into as of the day and year first written above.

OWNER
785 PARTNERS, LLC

BY: Amy Greenstein

DATE: 3/3/06

ATTEST

CONSTRUCTION MANAGER
TIME SQUARE CONSTRUCTION, INC.

BY: Donald O. Sulkin

DATE: 3/3/06

ATTEST

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shall be conducted before a panel of three (3) arbitrators in New York, New York, or at such other location as the parties involved may mutually agree upon, in accordance with the Commercial Rules of the American Arbitration Association ("AAA") then in effect. The panel of arbitrators will be jointly selected by counsel for the Owner and counsel for the Construction Manager, both acting reasonably. If counsel are unable to agree within 60 days of the commencement of arbitration, the panel of arbitrators will be selected by the procedures of the AAA for selecting arbitrators. The panel of arbitrators shall not have the authority to add to, detract from or modify any provision of this Agreement nor to award punitive damages to any injured party. A decision by a majority of the panel of arbitrators shall be final and binding and judgment may be entered on the award of the arbitrators by any court of competent jurisdiction. In their discretion, the arbitrators may award the fees and expenses of the arbitration proceeding, including the fees and expenses of the AAA and the panel of arbitrators to the substantially prevailing party and against the substantially non-prevailing party, and may also in their discretion award the reasonable legal fees and expenses of the prevailing party to the substantially prevailing party and against the substantially non-prevailing party. Interest shall accrue on any arbitration award at the rate of 9% per annum, commencing thirty days after the date on which the award is originally issued.

Owner

785 PARTNERS, LLC
(f/k/a Esplanade Condominiums LLC)

By: J. Lisenby

Construction Manager

TIME SQUARE CONSTRUCTION
INC.

By: Donald O. Miller

1997 Edition - Electronic Format

AIA Document A201 - 1997

General Conditions of the Contract for Construction

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THIS DOCUMENT HAS IMPORTANT
LEGAL CONSEQUENCES.
CONSULTATION WITH AN
ATTORNEY IS ENCOURAGED WITH
RESPECT TO ITS COMPLETION OR
MODIFICATION. AUTHENTICATION
OF THIS ELECTRONICALLY
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MADE BY USING AIA DOCUMENT
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*This document has been approved and
endorsed by The Associated General
Contractors of America.*

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AIA DOCUMENT A201 - 1997
GENERAL CONDITIONS OF THE
CONTRACT FOR CONSTRUCTION

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5.3.3. Add the following provision as a new Subparagraph 5.3.2:

The Construction Manager shall not enter into any subcontract, contract, agreement, purchase order or other arrangement ("Arrangement") for the furnishing of any portion of the materials, services, equipment with respect to any portion of the Work with any party or entity if such party or entity is an Affiliated Entity (as defined below), unless such Arrangement has been approved in writing by the Owner, after full disclosure in writing by the Construction Manager to the Owner of such affiliation or relationship and all details relating to the proposed Arrangement. Owner's approval shall not be commercially unreasonably withheld, conditioned or delayed. The term "Affiliated" means any entity related to or affiliated with the Construction Manager or with respect to which the Construction Manager has direct or indirect ownership or control, including, without limitation, any entity owned in whole or part by the Construction Manager; any holder of more than 10% of the issued and outstanding shares of, or the holder of any interest in, the Construction Manager; any entity in which any officer, director, employee, partner or shareholder (or member of the family of any of the foregoing persons) of the Construction Manager or any entity owned by the Construction Manager as a direct or indirect interest, which interest includes, but is not limited to, that of a partner, employee, agent or shareholder. Notwithstanding the foregoing, Owner hereby approves that Construction Manager or its Affiliates may (but shall not be required to) execute of certain portions of the hard construction Work on the Project, including, for example, foundation work, concrete, masonry stone, plaster and tile work (see also Rider Addendum to Contract, Item 8), and no further approvals of Owner shall be required.

6.2.2. Insert after the word "Architect" in the first sentence of Subparagraph 6.2.2 the words "and the Owner".

ARTICLE 9 - PAYMENTS AND COMPLETION

9.2.1. Add after the word "Architect" the first time it appears in Subparagraph 9.2.1 the words "and Owner". In addition, insert the following sentence immediately after the first sentence of Subparagraph 9.2.1:

The schedule of values shall be prepared in such a manner that each major item of the Work and each subcontracted item of the Work is shown as a separate line item on AIA Document G703, Application and Certificate for Payment, Continuation Sheet, or other form acceptable to the Owner.

9.3.1. Add after the word "Architect" the first time it appears in Subparagraph 9.3.1 the words "and Owner". In addition, add at the end of Subparagraph 9.3.1 the following provision:

shall be in writing and sent by registered or certified mail, return receipt requested, and shall be addressed as follows:

To: Owner

At: 785 Partners LLC
c/o Esplanade Capital LLC
350 Fifth Avenue, 59th Floor
New York, New York 10118
Attn: Mr. David Schaff

To: Construction Manager

At: Time Square Construction Inc.
48-06 39th Avenue, 2nd floor
Queens, New York 11104
Attn: Mr. Tony Del Greco

With copy to:

At: Siller Wilk LLP
675 Third Avenue
New York, New York 10017
Attn: Aaron C. Kinderlehrer, Esq.

With a copy to:

At: Flemming, Zulack Williamson Zauderer,
LLP
One Liberty Plaza
New York, NY 10006-1404
Attn: Robert Polifka, Esq.

To: Architect

At: Ismael Leyva Architects P.C.
48 West 37th Street
New York, New York 10018

Any of the parties may change such address by written notice sent by registered or certified mail to the other.

Add paragraph 13.8 as follows:

13.8 WARRANTIES AND GUARANTEES

13.8.1 Upon completion of the Work, Construction Manager shall furnish Owner with copies of all warranties, guarantees, operating manuals relative to equipment installed, and a complete set of reproducible drawings with all field changes noted on them relative to the improvements constructed under this Contract.

ARTICLE 14 - MORGAN STANLEY CONSENT

14.1 CONSENT.

There is presently a Mortgage in the principal amount of [REDACTED] (the "Mortgage") affecting the Project held by Morgan Stanley Mortgage Capital, Inc. ("Morgan"), as mortgagee. The parties hereto acknowledge that this Agreement is subject to and conditioned upon the Owner obtaining the written consent (the "Consent") of Morgan to the execution of this Agreement. Morgan has already given its oral approval to the transactions contemplated by this Agreement.

14.2 FAILURE TO OBTAIN CONSENT.

If Morgan shall not have executed and delivered the Consent on or before forty-five (45) days from the date hereof, either party shall have the right to cancel this Agreement on fifteen (15) days written notice to the other (the "Cancellation Notice") and on the date which is fifteen (15) days after the giving of such notice, this Agreement shall be deemed canceled and no further force or effect and neither party shall have any liability or obligation to the other in respect thereof. Notwithstanding the foregoing, if within fifteen (15) days after the giving of the Cancellation Notice, the Consent is received, then the Cancellation Notice shall be deemed null and void and this Agreement shall continue in full force and effect.

OWNER:

785 PARTNERS LLC

By:

Jay Eisenstat
Name: Jay Eisenstat
Title: Managing

CONTRACTOR:

TIME SQUARE CONSTRUCTION
INC.

By:

Daniel O'Neill
Name:
Title:

DRAFT AIA Document A121™CMC - 2003

Amendment No. 1

AMENDMENT NO. 1

TO AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER

Pursuant to Section 2.2 of the Agreement, dated [REDACTED] between 785 PARTNERS LLC (f/k/a Esplanade Condominiums LLC) (Owner) and [REDACTED] (the Construction Manager), for the Project as defined in the Agreement, the Owner and Construction Manager establish a Guaranteed Maximum Price and Contract Time for the Work as set forth below.

ARTICLE I GUARANTEED MAXIMUM PRICE

The Construction Manager's Guaranteed Maximum Price for the Work, including the estimated Cost of the Work as defined in Article 6 and the Construction Manager's Fee as defined in Article 5, is Thirty-Four Million Two Thousand Four Hundred Sixty-Nine (\$34,002,469*) Dollars. This Price is for the performance of the Work in accordance with the Contract Documents listed and attached to this Amendment and marked Exhibits A hereto as follows:

Exhibit A. Drawings, Specifications, addenda and General, Supplementary and other Conditions of the Contract on which the Guaranteed Maximum Price is based, pages [REDACTED] through [REDACTED], last dated [REDACTED].

ADDITIONS AND DELETIONS:
 The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

*This Guaranteed Maximum Price for the Work is based on a present estimate of 96,332 square feet in the Project, and also based on \$342.69 per square foot construction cost and includes five (5) possible scope changes. If the square footage of the Project changes, based on Final Plans and measurements approved by Owner and/or if certain of the approved scope changes are not carried out, then this Guaranteed Maximum Price for Work will be increased or decreased, as the case may be. See also Rider Addendum No. 1 Item 5 for other factors that could cause increase or decrease in Guaranteed Maximum Price.

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ARTICLE II CONTRACT TIME

The date of Substantial Completion established by this Amendment is presently estimated to be a sixteen (16) month period ending on October 31, 2007.

OWNER
785 PARTNERS LLC

Jay Eisenstat
(Signature)

(Printed name and title)
3/3/06

Date

ATTEST

CONSTRUCTION MANAGER
TIME SQUARE CONSTRUCTION,
INC.

David C. Miller
(Signature)

(Printed name and title)
3/3/06

Date

ATTEST